
Commerce & Labor Committee

HB 3206

Brief Description: Providing industrial insurance compensation for medical treatment received at personal expense.

Sponsors: Representatives Green, Conway, Cody, Simpson and Campbell.

Brief Summary of Bill

- Provides that if the Department of Labor and Industries has made a medical coverage decision denying an injured worker's request for coverage of a particular treatment and the worker subsequently receives the treatment, the Department must reimburse the payor in certain circumstances.
- Requires the Department of Labor and Industries to authorize coverage for a trial of an implantable medical device intended to treat chronic intractable pain if a treating provider requests a trial on an individual worker.
- Requires the Department of Labor and Industries to authorize coverage for full implantation and follow-up treatment if the treating provider finds individual success for the worker after a trial of an implantable medical device intended to treat chronic intractable pain is conducted.

Hearing Date: 1/30/06

Staff: Sarah Dylag (786-7109).

Background:

Industrial insurance provides medical and partial wage replacement benefits to covered workers who are injured on the job or who develop an occupational disease. Employers who are not self-insured must insure with the state fund operated by the Department of Labor and Industries (Department).

Proper and Necessary Medical and Surgical Services

The Industrial Insurance Act states that a worker entitled to industrial insurance benefits is entitled to "proper and necessary medical and surgical services." The Department sets forth, in rule, a definition of proper and necessary services as services that are:

- reflective of accepted standards of good practice, within the scope of practice of the provider's license or certification;
- curative or rehabilitative. Care of a type to cure the effects of a work-related injury or illness, or it must be rehabilitative. Curative treatment produces permanent changes, which eliminate or lessen the clinical effects of an accepted condition. Rehabilitative treatment allows an injured or ill worker to regain functional activity in the presence of an interfering accepted condition. Curative and rehabilitative care produce long-term changes.
- not delivered primarily for the convenience of the claimant, the claimant's attending doctor, or any other provider; and
- provided at the least cost and in the least intensive setting of care consistent with the other provisions of this definition.

Claim Decisions

The Department and self-insurers make claim-specific decisions regarding specific medical benefits for a particular worker. In addition, the Department makes general medical coverage decisions that include or exclude specific health care services or supplies as covered benefits under the Industrial Insurance Act. General medical coverage decisions are used as a part of the decision making process in making claim-specific decisions.

Roller v. Department of Labor and Industries

In August 2005, the Washington Court of Appeals decided Roller v. Department of Labor and Industries. In that case, the court determined that the Department inappropriately denied coverage for a certain treatment for a particular worker. After the worker underwent the treatment at the worker's own expense, the worker's condition improved. The Court based its decision on a number of factors, including the Department's definition of "proper and necessary" and the fact that the specific treatment in question was not explicitly excluded under the Department's rules.

Summary of Bill:

If the Department has made a medical coverage decision denying the request of a worker entitled to benefits for coverage of a particular treatment and the worker subsequently receives the treatment at his or her own expense, using his or her own medical insurance, or otherwise, the Department must reimburse the payor for the cost of the treatment, pay the medical provider any unpaid amount, and consider the treatment proper and necessary for the worker. The worker must provide adequate documentation that he or she received the treatment and medical evidence that his or her condition has improved.

The Department must also authorize coverage for a trial on an individual worker of an implantable medical device intended to treat chronic intractable pain that is approved by the United States Food and Drug Administration and considered standard of care in the interventional pain medical community, if a treating provider requests the trial. After the trial is completed, the Department must authorize full implantation and follow-up treatment if the treating provider finds individual success.

Rulemaking Authority: The bill does not contain provisions addressing the rule-making powers of an agency.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.